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May 6, 2020

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

RE: UM 2024—PacifiCorp's Closing Comments

PacifiCorp d/b/a Pacific Power encloses for filing its closing comments in the above-referenced proceeding.

If you have questions about this filing, please contact Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,

Michael Wilding
Director, Regulation

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 2024

In the Matter of ALLIANCE OF WESTERN ENERGY CONSUMERS Petition for Investigation into Long-Term Direct Access Programs.	PACIFICORP'S CLOSING COMMENTS

In opening comments, parties addressed costs and benefits of direct access, resource adequacy concerns, and other key issues involving long-term direct access (LTDA) issues. In those comments, parties largely recognized the need for careful LTDA program design, including the imposition of appropriate transition charges, to guard against significantly shifting costs to remaining cost-of-service (COS) customers.[1] Parties also generally acknowledged the need for fair allocation of resource adequacy responsibilities,[2] while

[1] Alliance of Western Energy Consumers (AWEC) Opening Comments, Attach. A at 8 (Mar. 16, 2020) (recognizing that stranded costs are appropriately addressed through transition adjustment or exit fees, as "currently done for existing LTDA customers"); Calpine Solutions, LLC (Calpine) Opening Comments at 6 (Mar. 16, 2020) (recognizing that direct access can result in stranded costs and cost-shifting, particularly if departing load "did not pay adequate stranded cost payments"); Northwest and Intermountain Power Producers Coalition (NIPPC) Opening Comments 4-5 (Mar. 16, 2020) (recognizing that direct access could lead to undue levels of cost shifting associated with stranded generation assets and resource adequacy requirements, and further agreeing that "stranded costs should be paid by that exiting customer").

[2] AWEC Opening Comments, Attach. A at 23 (describing resource adequacy as "important" and stating that direct access customers' resource adequacy choices should not "negatively impact other customers"); Calpine Opening Comments at 29 (offering guidelines for the allocation of resource adequacy responsibilities to direct access customers and/or Electric Service Suppliers (ESS)); NIPPC Opening Comments at 7 ("NIPPC understands the need to ensure resource adequacy standards for all load[-]serving entities[.]"); Portland General Electric (PGE) Opening Comments at 5 (Mar. 16, 2020) ("PGE recommends that the Commission update the structure of direct access to ensure that all customers contribute to resource adequacy[.]").

supporting the development of regional coordination efforts.[3]

Here, PacifiCorp addresses a subset of these opening comments addressing (1) the theoretical benefits and costs associated with substantial numbers of large customers departing the utility's system on a long-term basis; (2) the implications of growing regional resource adequacy concerns for long-term direct access programs; as well as (3) a handful of issues outside the direct scope of the Commission's Phase I issue list.

Overall, PacifiCorp believes that the Commission's existing policies have successfully balanced the need for robust customer protections with ensuring an appropriate degree of competitive market access. PacifiCorp continues to support the Commission's efforts to monitor these policies and programs to protect all classes of customers, consistent with its statutory mandate.

I. INTRODUCTION

PacifiCorp would make a few observations in light of the opening comments. First, it is evident that direct access raises largely the same risks today that it raised 20 years ago. While it is appropriate to take a fresh look at the Commission's direct access policies, the fundamental implementation concerns have not changed. In fact, PacifiCorp believes that most of the Commission's existing direct access policies, including the imposition of appropriate participation caps, the calculation of PacifiCorp's transition charges, and

[3] AWEC Opening Comments, Attach. A at 14-15 (describing the Northwest Power Pool (NWPP) regional resource adequacy efforts and noting that AWEC has a representative on the stakeholder advisory committee); Calpine Opening Comments at 28 (describing a bilateral market coordinated by the NWPP efforts as "[o]ne possible framework"); NIPPC Opening Comments at 7 ("NIPPC believes that a regional approach to resource adequacy is key[.]"); PGE Opening Comments at 20 ("[I]t is essential we work together to assess our overall supply situation so we can each better understand our individual needs and necessary actions, to ensure that each entity is supporting resource adequacy for their customers as well as resource adequacy for the broader interconnected region.").

imposition of a customer opt-out charge, continue to address the issues in a fair and balanced manner.

Second, PacifiCorp would note that many of the theoretical benefits raised by proponents of direct access are relatively peripheral, and are likely to arise only upon the imposition of appropriate regulatory policy requirements that encourage them to come to fruition. For example, unless the Commission requires direct access customers to pay appropriate transition charges, invest in meaningful resource adequacy planning, and so on, direct access policies will only undermine the existing regulatory system—the system upon which Oregon's electric system and the vast majority of its citizens remain dependent—with negative repercussions for the state and its citizens as a whole.

Finally, PacifiCorp would observe that the co-existence of direct access and a traditional utility regulatory system are fundamentally in tension. This inherent tension makes implementation of direct access a complex endeavor, but the Commission should not hesitate to implement direct access policies in a manner that protects cost-of-service customers. The Oregon legislature decided two decades ago to conditionally permit a small slice of retail customers to access alternative service providers. Since then, the legislature has had over 20 years to loosen those conditions, expand that access, or move away from a traditional regulatory system in favor of true competitive markets. Instead, Oregon policymakers have increasingly chosen to rely on the Commission's traditional regulatory authority as a lever for moving the economic and environmental goals of the state's energy policy forward. That progress may be impeded if direct access policies undermine the state's regulatory model by increasing costs for its cost-of-service customers or diminishing scalable solutions by inappropriately driving customers to defect from the system. In short, the state's overall statutory scheme suggests that this tension should be resolved in favor of protecting the traditional regulatory system and leaving its remaining customers whole.

II. COSTS AND BENEFITS OF DIRECT ACCESS

A. Performing a Cost-Benefit Assessment of Long-Term Direct Access Programs is Necessary and Appropriate.

As a preliminary matter, NIPPC argues that the Commission does not need to consider the costs and benefits of direct access because the legislature has already concluded that a "vibrant" retail electricity market for non-residential customers benefits all of Oregon.[4] By extension, NIPPC reasons that there is no "need to relitigate why it is important for Oregon to have a more workable direct access market[.]"[5] Respectfully, NIPPC misstates the nature of the legislature's mandate and ignores the Commission's core statutory duty to ensure that regulated utilities are able to provide safe, reliable, affordable electric service to customers.

The legislature has provided for a certain degree of competitive market access, but as is evident from a review of the legislation itself, this direction came with clear limits.

- First, while directing the Commission to implement direct access policies for large customers, the legislature simultaneously directed the Commission to prevent undue cost-shifting. These dual legislative mandates cannot be implemented without carefully weighing the costs and offsetting benefits of direct access.[6]
- Second, the legislature declined to implement full retail access. Instead, it permitted only a subset of sophisticated customers to access the market, while continuing to rely heavily on the Commission's traditional regulatory structure to oversee rates and

[4] NIPPC Opening Comments at 3.
[5] NIPPC Opening Comments at 3.
[6] Senate Bill 1149, Sec. 8; ORS 757.607(1).

services for the majority of customers.[7] The legislature's willingness to allow a subset of customers to access alternative suppliers was not meant to come at a cost to the vast majority of Oregonians who were intended to remain under the protective umbrella of the Commission's regulatory authority.

- Finally in 2001, the legislature reestablished COS access for all customers and halted any movement toward full deregulation of the state retail market; in doing so, the legislature highlighted the ongoing need for a strong regulatory hand to govern the state's electric markets, noting the Commission's "unique expertise to understand and lead changes in the regulation of electric companies[.]"[8]

In all of these legislative enactments, the legislature indicated that direct access policies should be driven by the Commission's exercise of its authority and expertise to avoid unduly impacting remaining COS customers. In other words, the Commission is directly charged with overseeing Oregon's balanced energy policy, which allows large, sophisticated electric customers to access market alternatives and take risk, but the impacts of those economic decisions should be solely borne by those customers and the costs of departure and shifting of risk should not be spread among other customers.

Finally, even if the Commission had not been specifically directed to safeguard customers against undue cost shifting in direct access programs, the Commission's overarching obligation to protect the public and ensure adequate service at reasonable rates

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[7] Indeed, for smaller customers, the legislature defined "choice" as access to a series of portfolio options provided by the incumbent utility, a type of choice that remains viable and affordable only so long as the regulatory environment remains secure and smaller customers remain unharmed by the departure of large customers.

[8] House Bill 3696, 71st Or. Leg. Assemb., Reg. Sess. (2001) (preamble).

would nonetheless demand such an inquiry.[9] In order to ensure that remaining COS customers receive adequate service at reasonable rates, the Commission must consider whether rates would unreasonably increase if a substantial share of an incumbent utility's load defected without taking appropriate responsibility for their share of system costs.

B. Proposed Benefits Associated with Long-Term Direct Access Departures Require More Evidence to Ensure that Remaining COS Customers are Unharmed.

A number of parties highlight potential benefits associated with direct access beyond those enumerated in PacifiCorp's Opening Comments. While PacifiCorp agrees that some of these benefits are theoretically possible, they are relatively peripheral and will remain speculative absent explicit Commission regulatory steps to ensure they come to fruition.

First, AWEC, NIPPC, and Calpine argue that direct access indirectly benefits COS customers—and Oregonians in general—by increasing jobs and by reducing other non-energy costs, such as the costs of higher education and consumer goods.[10] While these benefits are theoretically possible, they are hypothetical at best, and are likely to be offset by the negative implications of direct access if customers depart without carrying their share of system responsibility. By contrast, historical evidence suggests that the costs of direct access are real, potentially leading to tens of millions of dollars in cost shifts for residential and small business customers unless addressed through appropriate customer-protection mechanisms.[11] In contemplating changes to its direct access policies, then, the Commission

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[9] ORS 756.040 (directing the Commission to "represent the customers of any public utility" in matters under the Commission's jurisdiction, and "to protect such customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate serve at fair and reasonable rates.").
[10] NIPCC Opening Comments at 3; AWEC Opening Comments, Attach. A at 4; Calpine Opening Comments at 2.
[11] *In the Matter of Pacificorp, dba Pacific Power, Transition Adjustment, Five-Year Cost of Service Opt-out*, Docket UE 267, Order No. 15-060 at 6 (Feb. 24, 2015); *see also* Docket UE 267, Pacific Power's Reply Testimony, PAC/402, Duvall/1 (Mar. 27, 2014) (forecasting the anticipated shifted costs in the absence of an adequate opt-out charge).

should exercise care to ensure that it accurately determines the costs and benefits of direct access. Ultimately, the indirect benefits identified by proponents are simply too speculative to materially impact an evidence-based assessment of the costs and benefits of direct access.

Second, AWEC and NIPPC argue that direct access benefits COS customers by creating competitive pressures on incumbent utilities.[12] Certainly, competitive pressures in theory motivate regulated utilities to contain costs to remain affordable and competitive; however, these competitive motivations already exist under the Commission's existing direct access framework.[13] Increasing pressures beyond the point where a utility can safely cut costs is unlikely to increase benefits further because, as noted in PacifiCorp's Opening Comments, competition simply cannot drive down embedded costs driven by historical but prudent investments or costs associated with ongoing—and in some cases, growing—utility regulatory obligations. In short, certain costs simply cannot be avoided by even the most efficient utility behavior, and efforts that encourage defection from the system by giving departing customers a free pass for their share of system costs will only harm remaining customers.

Indeed, as the Commission has recognized, in addition to embedded costs of prudent investments, regulated utility rates increasingly include costs associated with state and even local policies and programs that utilities cannot avoid, and that today's ESSs do not carry. While these improvements "benefit the system as a whole[,]" their costs are currently recovered only from COS customers.[14] Because such mandates and programs often involve

[12] NIPCC Opening Comments at 4; AWEC Opening Comments, Attach. A at 5.
[13] Docket UE 267, PacifiCorp's Rebuttal Brief at 6 (Aug. 11, 2014) (acknowledging that departing customers creates a strong incentive to reduce transition costs).
[14] *In the Matter of Rulemaking Related to a New Large Load Direct Access Program*, Docket AR 614, Order No. 18-341 at 3 (Sept. 14, 2018).

investments in untested solutions, they can create incentives for large customers to leave the utility's system, further shrinking the pool of customers available to fund state energy policy mandates. In order for direct access to achieve the benefits of competitive pressures, then, the playing field must be carefully balanced to account for the uneven obligations borne by the competing parties.

Third, Staff, NIPPC, Calpine, and AWEC argue that direct access benefits COS customers by delaying or avoiding the need to acquire new generating resources. Given the utility planning cycle for long-term system investments, however, it is not clear that these assertions are correct, even given the current lead-times for generation projects. Moreover, many new resources are no longer acquired solely to accommodate load growth, so there is no certainty that departing load would delay or avoid the addition of such generation.

Fourth, Staff, NIPPC, and AWEC claim that direct access benefits customers by prompting more renewable energy development.[15] This benefit would materialize only if direct access customers reliably pursued new carbon-free energy—or did so to a greater extent than incumbent utilities.[16] However, nothing requires direct access customers to do so, and particularly if it is more expensive to develop new resources.[17] Consequently, this benefit will reliably materialize only if the Commission implements direct access policies that make this outcome mandatory. As suggested by the Washington Utilities and Transportation Commission, customers seeking carbon-free energy may be better served by

[15] Staff Opening Comments at 4 (Mar. 16, 2020); NIPCC Opening Comments at 3; AWEC Opening Comments, Attach. A at 6.
[16] Relatedly, NIPPC claims that direct access contributes to greater power supply diversity and innovation in the regional energy industry. Both of these arguments similarly depend on direct access customers doing more than relying on market purchases.
[17] Until 2021, ESSs have been permitted to use renewable energy certificates (RECs) for renewable portfolio standards (RPS) compliance purposes. Beginning in 2021, ESSs will be permitted to use up to 20 percent unbundled RECs and an unlimited quantity of unbundled RECs from Oregon Qualifying Facilities (QFs) under the Public Utility Regulatory Policies Act of 1978.

selecting green energy tariff options, rather than pursuing direct market access.[18] Alternately, such customers may be better served by remaining COS customers, as Oregon's utilities decarbonize under a least-cost, least-risk framework.

C. Large Customer Departures Can Cause Long-Term Cost Consequences that Are Impossible to Mitigate.

All parties appear to recognize that direct access departures can substantially increase the costs for other ratepayers by creating stranded assets.[19] While a handful of comments suggest that certain cost risks may be overstated or mitigable, these comments focus on minor or peripheral cost issues while failing to meaningfully address the major drivers of risk to COS customers. PacifiCorp addresses the parties' key contentions here. Overall, PacifiCorp continues to support the Commission's existing policies for assessing and preventing unwarranted cost shifts caused by direct access programs.

First, AWEC claims that direct access does not entail significant planning, forecasting, and load balancing costs.[20] For instance, AWEC notes that load forecasting "is an inherently complex and uncertain exercise[,]" such that load departures through direct access does not make such forecasting "materially more complex[.]"[21] PacifiCorp agrees with AWEC that the current design of Oregon's direct access policies minimizes these particular cost impacts to PacifiCorp's system. However, if Oregon's direct access policies

[18] *Washington Utilities and Transportation Commission v. Puget Sound Energy*, Docket UE-161123, Order 06 ¶ 94 (July 13, 2017).
[19] AWEC Opening Comments, Attach. A at 8 (recognizing that stranded costs are appropriately addressed through transition adjustment or exit fees, as "currently done for existing LTDA customers"); Calpine Opening Comments at 6 (recognizing that direct access can result in stranded costs and cost-shifting, particularly if departing load "did not pay adequate stranded cost payments"); NIPPC Opening Comments 4-5 (recognizing that direct access could lead to undue levels of cost shifting associated with stranded generation assets and resource adequacy requirements, and further agreeing that "stranded costs should be paid by that exiting customer").
[20] AWEC Opening Comments, Attach. A at 8.
[21] AWEC Opening Comments, Attach. A at 8.

were to change dramatically, the costs of planning, forecasting, and load balancing would be expected to increase relative to the level of change. The costs of these efforts would therefore need to be reevaluated entirely.

Second, NIPPC argues that utilities faced with stranded costs must attempt to mitigate the impacts of customer departures by attempting to minimize stranded costs.[22] PacifiCorp agrees that utilities should seek to offset costs by maximizing the value and efficiencies of their systems, but stranded costs are, by definition, not mitigable.[23] They are created when traditional cost-recovery mechanisms are removed, and utility investment are rendered non-competitive in the marketplace. Indeed, a transition charge is, by definition, "a charge or fee that recovers all or a portion of an *uneconomic* utility investment."[24] In any case, mitigation of *overall costs* associated with customer defection is already incorporated into transition charges to the extent supported by the available evidence. For instance, transition charges are reduced by the amount of market purchases that the utility can avoid purchasing to serve departed customers.[25]

As a result, even if utilities undertake extensive mitigation measures to minimize the cost-shifting caused by departing direct-access customers, these measures would not erase

[22] In addition to arguing that utilities should generally be mitigating stranded cost impacts, NIPPC specifically seems to suggest that freed-up generation resources should be sold to the extent that the resources are no longer economic.

[23] As the concept was explained by another state implementing direct access, "[t]he Legislature understood that the cost of [utility] assets likely would be recovered in a regulated environment, but might well become uneconomic and *thus unrecoverable* in a competitive, deregulated electric power market." *CenterPoint Energy, Inc. v. PUC,* 143 S.W.3d 81, 82 (2004) (emphasis added).

[24] ORS 757.600(31).

[25] Docket UE 267, Order No. 15-060 at 5 (explaining that "savings from reduced front-office transactions associated with loss of direct access load are already captured in the GRID model runs that underlie calculation of the transition adjustment"); *see also id.* at 9 (declining to offset the transition costs by the speculative ability to sell BPA transmission rights in the absence of any evidence that the utility could reacquire those rights if and when direct access loads return).

the need for an accurate assessment of transition charges to protect COS customers from bearing the costs of direct access programs.

III. RESOURCE ADEQUACY

All parties appear to accept that responsibility for resource adequacy must be fairly allocated between incumbent utilities and direct access customers (or ESSs).[26] Despite this high-level consensus, the proposals offered by the ESS parties are flawed and inadequate. First, AWEC argues that customers should be permitted to determine for themselves "the relative importance of resource adequacy." The problem with this assertion is that if a load-serving entity, like an ESS, fails to reliability plan to meet its load service obligations, that failure can impact the wider reliability of the electric system—and by extension, other customers. In other words, the negative impacts of inadequate planning for resource adequacy are not limited to ESS customers; they ripple out to other users of the electric system.

ESSs that fail to plan appropriately may lean on the system in ways that are largely invisible but place stress on the system. For example, contingencies may occur on the electric system that are not extreme enough to require curtailment, but nevertheless may require the balancing authority to take steps to ensure there are enough resources in the balancing authority area to ensure system reliability.[27] In such a case, an inadequately

[26] NIPPC Opening Comments at 7 ("NIPPC understands the need to ensure resource adequacy standards for all load serving entities[.]"); Calpine Opening Comments at 29 (encouraging the Commission, "in the context of imposing Resource Adequacy requirements on direct access customers and/or ESSs," to avoid double charging for services such as real-time balancing); Staff Opening Comments at 11 (noting that, currently, the incumbent utility is provider of last resort (POLR) responsible for providing resource adequacy); Oregon Citizens' Utility Board (CUB) Opening Comments at 10 (March 16, 2020) (noting that direct access customers currently benefit by shifting the costs of reliability to other customers).
[27] The worst case, of course, would be an overall shortage of power needed to keep the wider system functioning, which history has shown can result in skyrocketing prices or system blackouts.

prepared ESS might "lean" on the system, which would shift planning and investment obligations to other users of the system.

The Commission has addressed the issue of resource adequacy in an interim manner by requiring PGE to develop a curtailment provision for new load direct access (NLDA) customers, allowing the utility to decline to serve direct access customers under certain circumstances.[28] This solution is both inadequate and inequitable. Curtailment provisions are triggered only in times of significant shortfalls. So long as others are carrying a sufficient margin of reliability resources, however, individual direct access customers will be able to avoid contributing their fair share to resource adequacy, while avoiding the consequences.

PacifiCorp also questions whether it is in the public interest for the Commission to rely on a policy of curtailment in lieu of imposing meaningful planning requirements. As other parties have noted, direct access customers support substantial segments of Oregon's economy. While a large customer might be willing to take the risk of seeking service from an ESS ill-prepared for negative contingencies, the Commission should consider what approach it might take if the customer could no longer rely on an ESS for reliable service.

Second, both Calpine and AWEC urge the Commission to treat certain types of resources as contributing to resource adequacy, including market-based products such as Firm Liquidated Damages resources,[29] as well as demand response and energy efficiency.[30] PacifiCorp does not object to the use of these types of resources to meet resource adequacy obligations in theory, but only if coupled with strict Commission oversight to ensure the

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[28] *In the Matter of Portland Gen. Elec. Co., Advice No. 19-02 New Load Direct Access Program*, Docket UE 358, Order No. 20-002 at 8 (Jan. 7, 2020) (encouraging PGE to file curtailment protocols "so that cost-of-service customers are less likely to face cost shifts when ESSs supplying NLDA customers fail to perform").
[29] Calpine Opening Comments at 29.
[30] AWEC Opening Comments, Attach. A at 17 (stating that "flexible load or load control (also known as demand response) and energy efficiency" can "contribute to system resource adequacy").

resources are firm and reliable. The historical (and ongoing) challenge with these types of resources is the ability to demonstrate their availability.

Should the Commission decide that an ESS may use certain types of resources to contribute to resource adequacy, then, it should implement meaningful mechanisms to evaluate and audit the existence and firmness of such products. Absent such mechanisms, an ESS might have an incentive to overstate their existence, particularly when the ESS can lean on the wider system in lieu of engaging in appropriate planning and investment.

Both energy efficiency and demand response must be measured against an appropriate baseline before they can be validated, a challenging exercise under any circumstances. A measurement of demand response is meaningful only when it excludes reductions in electricity use that follow normal operating patterns or behavior. Those normal operating patterns must be demonstrated before the resource can be validated. Likewise, viable energy efficiency resources must be measured against an appropriate baseline before the energy efficiency can be deemed a reliable resource rather than a phantom product.[31] Commission-regulated utilities rely on these types of resources, but they do so in the context of the Commission's integrated resource planning process, where the resources are part of a broad portfolio of resources and closely scrutinized by the Commission and other parties (including the Energy Trust of Oregon) to ensure they are viable.

As a long-term approach to concerns about resource adequacy, PacifiCorp continues to support the development of regional resource adequacy solutions that would apply to all load-serving entities in the region. PacifiCorp encourages the Commission to ensure that any

[31] The availability of generation supply resources, by contrast, can generally be measured by their expected output.

interim proposals to address resource adequacy do not interfere with broader regional efforts.[32]

IV. OTHER ISSUES

In addition to the primary concerns noted above, parties ask the Commission to consider and revise two other aspects of direct access implementation: (1) participation limits and (2) PacifiCorp's transition recovery period. While neither issue was specifically raised by the Commission for consideration in Phase I of the proceeding, PacifiCorp nonetheless responds briefly to both proposals, below.

A. Participation Limits

NIPPC asks the Commission to remove all limits on long-term direct access participation—specifically, customer size thresholds and overall program caps.[33] NIPPC states that such limits are inconsistent with the dictates of this state's direct access statute.[34] NIPPC argues that, although such limits may have been necessary at the outset of direct access, "they are no longer appropriate and now undermine legislative directive."[35]

The legal merits of NIPPC's position on statutory intent will be addressed in briefing. But for now, PacifiCorp would note that NIPPC's argument (1) overlooks the customer protections provided by caps on LTDA program participation; and (2) mistakes limits on long-term direct access for limits on direct access generally.

First, size thresholds and program caps on LTDA participation continue to provide important customer protections. COS customers could face sharply escalating cost impacts if

[32] PacifiCorp Opening Comments at 16.
[33] NIPCC Opening Comments at 2. Calpine similarly suggests that the Commission "consider" lowering the participation threshold for participation in long-term direct access programs. Calpine Opening Comments at 17.
[34] NIPCC Opening Comments at 6.
[35] NIPCC Opening Comments at 2.

a large volume of customers were to rapidly depart the system.[36] Conversely, if a large volume of long-term direct access customers simultaneously returned to the system due to a change in market forces, the incumbent utility might be required to quickly acquire additional generation at elevated prices—thereby increasing costs for all customers. Caps protect against these contingencies and allow the Commission to move these types of programs forward incrementally with room for correction as needed. For both direct access and COS customers, then, removing the participation limits for LTDA programs would create unacceptably open-ended risk. And with respect to size thresholds, less-sophisticated customers may have less leverage to establish stable resource contracts and less capacity to absorb market volatility.[37]

Second, limiting long-term direct access participation does not mean that direct access options are not available to all nonresidential customers. For instance, while PacifiCorp's LTDA program (Schedule 296) is limited to large nonresidential customers over 1 MW,[38] other schedules provide direct access options for small nonresidential customers as well.[39] There is no overall cap on participation in the full suite of PacifiCorp's direct access offerings.

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[36] As the Commission recently noted, caps are necessary because COS customers "are increasingly relied upon to finance system improvements that impose near-term costs to adapt the system to new utility and customer-sited technology," that, in turn is "intended to lead to long-term economic and environmental benefits for all customers." Docket AR 614, Order No. 18-341 at 8.

[37] AWEC recognizes that small commercial customers may have limited ability to influence the available resources or market products, and may be "fully exposed" if a supplier defaults. AWEC Opening Comments at 11.

[38] PacifiCorp's Schedule 296 also accommodates customers that operate under a single corporate entity with multiple meters that, together, total at least 2 MW in the prior thirteen months (and each meter having demand of more than 200 kilowatts). Schedule 296.

[39] *See, e.g.,* Schedule 723 (General Service Small Nonresidential Direct Access Delivery Service).

B. Transition Recovery Period

Calpine asks the Commission to consider reducing PacifiCorp's transition charge recovery period applicable to long-term direct access customers.[40] As a procedural matter, utility-specific changes to a transition recovery mechanism should be addressed in a utility-specific docket, rather than a general investigation. In any case, the evidence is likely to show that this approach would simply exacerbate PacifiCorp's shortfall in stranded cost recovery.[41] Reducing the cost recovery period would incompletely capture the cost consequences of departing large customer load and inappropriately shift costs onto remaining COS customers.

Indeed, Commission policies have historically recognized that there are additional cost shifts beyond this first 10 years that are already being borne by PacifiCorp. In docket UE 267, PacifiCorp proposed a 10-year recovery period to reduce barriers to LTDA participation, despite recognizing that cost-shifting would likely occur for a 20-year period.[42] The Commission found that, by reducing the cost-recovery period to 10 years, PacifiCorp would be motivated to minimize the impacts of departing customers in order to reduce the cost consequences incurred during years 11 to 20.[43] Consequently, PacifiCorp does not support reducing the cost recovery period.

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[40] Calpine Opening Comments at 16.
[41] In past years, for example, PacifiCorp has shown—and the Commission has agreed—that 175 MW of departing long-term direct access load would result in tens of millions of dollars in shifted costs for the second five-year period (between years six to ten). Docket UE 267, Pacific Power's Reply Testimony, PAC/402, Duvall/1 (forecasting the anticipated shifted costs in the absence of an adequate opt-out charge); Docket UE 267, Order No. 15-060 at 6.
[42] Docket UE 267, PacifiCorp's Prehearing Brief at 5 (May 14, 2014).
[43] Docket UE 267, Order No. 15-060 at 7.

V. CONCLUSION

As PacifiCorp noted in its opening comments, although direct access is limited to non-residential customers, the costs and risks of direct access remain substantial. Mitigating these risks and allocating these costs will require careful assessment of transition charges, clear allocation of responsibility for the state's POLR, reliability, and resource adequacy needs, as well as ongoing cost allocation flexibility as technologies and state policies require continued system, resource, and remediation investments. Many of the benefits touted by proponents of direct access will materialize only if the Commission imposes meaningful regulatory requirements to ensure they will come to fruition. PacifiCorp looks forward to addressing these issues in more detail during the course of this investigation.

Respectfully submitted this 6th day of May, 2020.

By: ______________________________
Matthew McVee
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